

SENATE BILL 2203

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 46,
relative to cemeteries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 46-2-302(a), is amended
deleting the existing language in its entirety and substituting instead the following language:

(a) Every cemetery company engaged in the business of selling lots, grave spaces, crypts, niches, and burial rights in this state shall establish and forever maintain an improvement care trust fund for each separate cemetery and for each separate geographical location of each cemetery owned and operated by the cemetery company, to provide for the improvement care and maintenance of such cemetery or such separate geographical location. Such trust fund shall be established by executing a written trust agreement with a trust company approved by the commissioner, or with a state or national bank, or with savings and loan associations having insurance of accounts as required by law. A cemetery company shall notify the commissioner of any changes in trustee within thirty (30) days before the change will occur. Approval by the commissioner is required before any changes in trustee may be made.

SECTION 2. Tennessee Code Annotated, Section 46-2-302(b) is amended by deleting the existing language in its entirety and substituting instead the following language:

- (c) The written trust agreement shall specifically state the following:
- (1) The nature and extent of the care to be furnished;
 - (2) That such care shall be furnished only insofar as the net income derived from the amount deposited in the trust will permit;
 - (3) The amount of the trustee's fee;
 - (4) The management of the trust fund;

(5) The duties and responsibilities of the trustee and the cemetery company;

6)(A) That not less than the following minimum amounts will be set aside and deposited in trust by the cemetery company:

- (i) For land, but not including lawn crypts, fifty cents (\$.50) per square foot of the land sold or twenty percent (20%) of total sales price, whichever is greater;
- (ii) For a lawn crypt, twenty percent (20%) of the total sales price of the land excluding the lawn crypt, or fifty dollars (\$50.00), whichever is greater;
- (iii) For a mausoleum, crypt or niche, not less than ten percent (10%) of the total sales price;
- (iv) For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker or monument, the full amount received; and
- (v) For a commodity, the full amount received for memorial care.

(B) Notwithstanding anything in chapter 1 of this title or this part to the contrary, any cemetery company depositing more than the required amounts in its improvement care trust fund, in accordance with prior statutory requirements or the provisions of its charter or contracts, shall be hereby authorized to continue to do so; provided, that deliberate advance payments made to the improvement care fund shall not be credited toward any future liability.

SECTION 3. Chapter 1012 of the Public Acts of 2006, Section 7 is amended by deleting the language in this section in its entirety and substituting the following:

Based on the concern that the current statutory methods of calculating the amounts of the required deposits into the preneed merchandise and services trust fund and the improvement care trust fund may result in inadequately funded trusts, the commissioner of commerce and insurance shall study the issue and present a report and recommendations, together with any recommended legislation, to the general assembly prior to March 15, 2007.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.